

Section 7112(b)(3) of the Statute excludes from an appropriate units "an employee engaged in personnel work in other than a purely clerical capacity." Employees are considered "personnelists" under section 7112(b)(3) if their inclusion in the unit would result in a conflict of interest between work duties and union membership.

**Nature of personnel work:** A position is excluded under section 7112(b)(3) of the Statute when: (1) the character and extent of involvement of the incumbent in personnel work is more than clerical in nature; and (2) the duties of the position in question are performed in a non-routine manner or are of such a nature as to create a conflict of interest between the incumbent's union affiliation and job duties. See *Department of the Treasury, Internal Revenue Service, Washington, D.C. and Internal Revenue Service, Cincinnati District, Cincinnati, Ohio*, 36 FLRA 138, 144 (1990).

**Exercise of independent judgment and discretion:** Employees who exercise independent judgment and discretion in initiating personnel actions or making recommendations to management on personnel actions are engaged in federal personnel work in other than a purely clerical capacity. See *U.S. Department of Housing and Urban Development*, 34 FLRA 207, 214 (1990). In contrast, individuals whose duties only require the recording and processing of completed personnel actions, maintenance of personnel files, or the screening of personnel actions for technical sufficiency, are not subject to the exclusion in section 7112(b)(3) because their involvement in personnel work is in a clerical capacity. See *U.S. Naval Station, Panama*, 7 FLRA 489 (1981).

**Personnel work must pertain to employees:** Employees who are involved in recruiting efforts for the military or who process military personnel information are not engaged in "federal personnel work" within the meaning of section 7112(b)(3) of the Statute. See *U.S. Army District Recruiting Command - Philadelphia*, 12 FLRA 409 (1983); *934th Tactical Airlift Group, Minneapolis-St. Paul International Airport, Minneapolis, Minnesota*, 13 FLRA 549, 561, 562 (1983).

**See HOG 56 for specific guidance about this topic at hearing.**

**Other references:**

*Headquarters, Fort Sam Houston, Fort Sam Houston, Texas*, 5 FLRA 339 (1981).

*Veterans Administration Medical Center, Prescott, Arizona*, 29 FLRA 1313 (1987).

*U.S. Department of the Army, Headquarters, 101st Airborne Division, Fort Campbell, Kentucky*, 36 FLRA 598 (1990). (A conflict of interest between job duties and union affiliation may be created when an employee's duties would require the employee to act in a manner adverse to bargaining unit interests, such as recommending appropriate organizational structure and staffing levels, and is one of the factors which the Authority may look to in determining whether a position is involved in personnel work in other than a purely clerical capacity.)

*U.S. Department of Justice, Federal Bureau of Prisons, U.S. Penitentiary, Marion, Illinois (DOJ)*, 55 FLRA 1243 (2000)